

REMARKS

By the present amendment, Applicant has amended Claims 1, 10 and 12, and canceled Claims 2 and 11. Claims 1, 3-10 and 12-16 remain pending in the present application. Claims 1 and 10 are independent claims.

In the recent Office Action the Examiner rejected Claim 12 under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 1, 3, 8-10, 15, and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Gemma, Jr. (6,663,456) in view of Mayer (2,852,885), in further view of Ouellette et al (5,816,821) and in further view of Wallace (*Teaching Multiculturalism: Focus on People*, hereafter referred to as Wallace). Claims 2 and 11 were rejected as being unpatentable over Gemma, Jr. in view of Mayer, Ouellette et al. and Wallace, and further view of Mendoza et al (*Examining Multicultural Picture Books for Early Childhood Classroom: Possibilities and Pitfalls*, hereafter referred to as Mendoza. Claims 4, 7, and 14 were rejected as being unpatentable over Gemma, Jr. in view of Mayer, Ouellette et al. and Wallace, and further view of Pokempner et al (US 2004/0198144) and Curtin (US 2002/014271). Claims 5, 6, and 13 were rejected as being unpatentable over Gemma, Jr. in view of Mayer, Ouellette et al. and Wallace, and further view of Shtipelman (4,673,197). Finally, Claim 12 was rejected as being unpatentable over Gemma, Jr. in view of Mayer, Ouellette et al. and Wallace, and further view of Pincus (*Manners Matter: Activities To Teach Young People Social Skills*, hereafter referred to as Pincus).

Applicants will advance arguments hereinbelow to illustrate the manner in which the presently claimed invention is patentably distinguishable from the cited and applied prior art. Reconsideration and allowance of the present application is respectfully requested.

The Examiner rejected Claim 12 under 35 U.S.C. 112, second paragraph, as being indefinite. Specifically, the term “as desired” was considered indefinite. Claim 12 has been clarified by deleting the objectionable term.

The Examiner rejected the claims under 35 U.S.C. 103(a) as being unpatentable over numerous prior art references. Independent claims 1 and 10 have been amended by insertion of the language from dependent Claims 2 and 11, respectively. Claims 2 and 11 (and therefore Claims 1 and 10) were rejected as being unpatentable over Gemma, Jr. in view of Mayer, Ouellette et al , Wallace and Mendoza. The Examiner contends that it would have been obvious to modify the Gemma, Jr. device with the teachings of the secondary references. This rejection is respectfully traversed.

The claims in this application have been revised to more particularly define Applicants’ multicultural educational kit for teaching children and method therefore. Reconsideration of the claims in light of the amendments and for the following reasons is respectfully requested.

Briefly stated, Applicants' educational kit and teaching method includes a series of components relating to one or more specific cultural, ethnic, racial, national, or other population groups, for teaching young children about such different groups throughout the world and eliminating the development of early prejudices toward peoples different from one's own. The present kit preferably contains a costumed doll representing a child native to the group being studied, a video presentation describing a typical day in the life of a child of the culture, a series of finger puppets representing a family of the group being studied, a series of small picture books and corresponding audio presentations discussing various subject areas of the culture or group being studied, an activity book relating to the culture or group being studied, a regional map, and a series of flash cards having various terms or words for colors, numbers, family members, geographical features, etc.

In order to reject Applicants' claimed kit and teaching method, the Examiner has pieced together a string of diverse and divergent prior art references. The claimed kit and method for teaching diversity does not permit the Examiner to take diverse references and to arbitrarily combine them while using the Applicants' claims as a guideline.

The Gemma, Jr. reference discloses a puppet show device whereby a user can create a puppet show by acting out plays, scenes or stories from a story media using a puppet glove and removable attachments. In regard to the recited kit of claim 1, Gemma, Jr. **lacks: a) at least one costumed doll configured to represent a child of a second culture; b) a plurality of finger puppets configured to represent a family of the second culture; c) at least one video presentation showing a typical period in a life of a child of the second**

culture; and d) a plurality of picture books and audio presentations corresponding thereto relating to a subject area of the second culture. Claim 10 represents the educational method utilizing the kit elements to teach multiculturalism to children. In order to reject claims 1 and 10, the Examiner improperly redesigns the Gemma, Jr. device by picking and choosing pieces of references that have various claimed components.

In order to overcome Gemma, Jr.'s lack of a costumed doll configured like a child of a second culture, the Examiner relies on Ouellette et al. The Ouellette et al reference discloses a costumed doll configured to represent a child of a second cultural **of the second language being taught.** There is no teaching or incentive to combine this bilingual educational doll that aids in teaching children a second language with Gemma, Jr.'s puppet show that represent characters from a story media.

In order to overcome Gemma, Jr.'s lack of a plurality of finger puppets configured to represent a family of the second culture, the Examiner relies on Mayer. Although Mayer discloses costumed figures of the "Tyrolian family", there is no teaching or incentive for its incorporation onto the Gemma, Jr. device. In order to use the teachings of Mayer, the Examiner is further redesigning Gemma, Jr.'s device to have a family of puppet figures whereby they can tell a story of the life in the second culture. That is clearly beyond what Gemma, Jr. disclosed on column 1, lines 50-63.

In order to overcome Gemma, Jr.'s lack of a video presentation showing a typical period in the life of a child of the second culture, the Examiner relies on Wallace. Wallace

is directed to teaching multiculturalism by preparing a class **for a visit** by a student of a second culture. A video presentation is of a typical day in the life of the visiting student. There is no teaching or incentive to incorporate this type of video presentation with Gemma, Jr.'s puppet show. Furthermore, there is no teaching or incentive to utilize a video presentation of a visiting student in the Gemma, Jr. device that has already been transformed by Ouellette to use a costumed doll and by Mayer to use a family of finger puppets.

In order to overcome Gemma, Jr.'s lack of a plurality of picture books and corresponding audio presentations, the Examiner relies Mendoza. The Gemma, Jr. device comprises a story media that has several play scenes or stories therein for the user to act-out with the use of the finger puppets. The Examiner has already transformed the Gemma puppet show with Ouellette, Mayer, and Wallace. The Examiner now concludes that it would have been obvious to use Mendoza's disclosure of multicultural picture books in Gemma, Jr.'s transformed device. First, Mendoza's disclosure is directed to picture books that depict the variety of ethnic, racial, and cultural groups; and is specifically directed to the examination of two books featuring Mexican American protagonists to illuminate issues and problems. Therefore, Mendoza does not teach or possess the claimed plurality of picture books relating to a subject area and a corresponding audio presentation. Second, the Mendoza reference is incompatible with the basic reference of Gemma, Jr. which only possesses a book or CD or audiotape etc. to tell a story for the puppet show. Claims 1 and 10 recite two distinct subject matter presentations: a video presentation regarding a typical day for the costumed doll; and an audio presentation corresponding to the picture book of a

specific subject area. Likewise, dependent claims 2-9 and 12-16, respectively, avoid the prior art.

Obviousness is tested by "what the combined teachings of the references would have suggested to those of ordinary skill in the art." *In re Keller*, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981). But it "cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination." *ACS Hosp. Sys., Inc. v. Montefiore Hosp.*, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). There is nothing in the teachings of the relied upon prior art references which would have suggested the obviousness of the Examiner's modifications of the puppet show of Gemma, Jr. Indeed, some of the Examiner's modifications are not even shown in the references. It is only by impermissible hindsight and reliance on Applicants' own disclosure that the Examiner would have been led to reconstruct Gemma, Jr.'s puppet show, so as to derive Applicants' claimed multicultural education kit and teaching method. It is therefore Applicants' conclusion that the combined teachings of Gemma, Jr., Ouellette, Mayer, Wallace, and Mendoza fail to establish a prima facie case of obviousness.

The remaining patents made of record in the application but not applied against any of the claims have also been carefully reviewed, however, Applicants finds nothing therein which would overcome or supply that which is lacking in the basic combinations of the other applied prior art noted above.

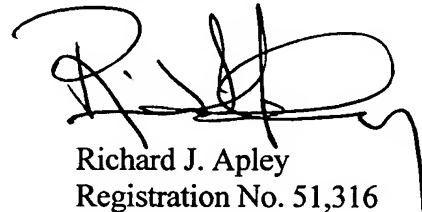
Application No.: 10/676,120
Art Unit: 3714

Attorney Docket No.: 22841.00
Confirmation No.: 6029

The claims in this application have been revised to more particularly define Applicant's construction and teaching method in view of the prior art of record. Reconsideration of the claims in light of the amendments and for the above-noted reasons is respectfully requested.

For the foregoing reasons, Applicant respectfully submits that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,



Richard J. Apley
Registration No. 51,316
(703) 486-1000

RJA:dht